

AMENDED IN ASSEMBLY AUGUST 19, 2016

SENATE BILL

No. 1105

Introduced by Senator Mendoza

February 17, 2016

An act to ~~repeal Section 23792 of~~ amend Sections 25503.6 and 25503.8 of, and to add Article 7 (commencing with Section 23550) to Chapter 3 of Division 9 of, the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 1105, as amended, Mendoza. Alcoholic beverage licensees: ~~restrictions: sports entertainment facilities.~~

The Alcoholic Beverage Control Act contains various provisions regulating the application for, the issuance of, the suspension of, and the conditions imposed upon alcoholic beverage licenses by the Department of Alcoholic Beverage Control. Existing law provides for various annual fees for the issuance of alcoholic beverage licenses, depending upon the type of license issued. Existing law additionally authorizes specified alcoholic beverage licensees to purchase advertising space and time from, or on behalf of, an on-sale retail licensee, under certain conditions, if the on-sale retail licensee is the owner, manager, agent of the owner, assignee of the owner's advertising rights, or major tenant of specified facilities.

This bill would authorize the Department of Alcoholic Beverage Control to issue an on-sale general for sports entertainment facility bona fide public eating place license (SEF-BFPEP license) that would allow the licensee to sell beer, wine, and distilled spirits at retail for consumption on the premises in a sports entertainment facility, as defined. The bill would impose an original fee and an annual renewal

fee for the license, which would be deposited in the Alcohol Beverage Control Fund. The bill would also make the above-described provisions relating to the purchase of advertising time and space inoperative as of December 31, 2022, and instead provide for those purchases with revised parameters, including that the parties submit a declaration to the department relating to the agreement to purchase advertising time and space.

~~The Alcoholic Beverage Control Act contains various provisions regulating the application for, the issuance of, the suspension of, and the conditions imposed upon, alcoholic beverage licenses by the Department of Alcoholic Beverage Control. Existing law prohibits the issuance of a license, other than an on-sale beer license, for premises situated more than one mile outside the limits of an incorporated city and within 2 miles of any camp or establishment of men, numbering 25 or more, engaged upon or in connection with the construction, repair, or operation of any work, improvement, or utility of a public or quasi-public character.~~

~~This bill would repeal that prohibition, thus authorizing the department to issue any type of license for premises situated in the above-described location.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 7 (commencing with Section 23550) is
2 added to Chapter 3 of Division 9 of the Business and Professions
3 Code, to read:

4

5 Article 7. Sports Entertainment Facility Bona Fide Public
6 Eating Place License

7

8 23550. For purposes of this article:

9 (a) "Agreement" includes any amendment, modification, other
10 revision, or extensions to the agreement if it relates in any manner
11 to the purchase of advertising space and time at the sports
12 entertainment facility from the owner or major tenant of the facility.

13 (b) "Authorized licensee" means a winegrower, rectifier,
14 California winegrower's agent, beer manufacturer, holder of an
15 out-of-state beer manufacturer's certificate, distilled spirits

1 *manufacturer, holder of a distilled spirits rectifier's general*
 2 *license, distilled spirits manufacturer's agent, brandy*
 3 *manufacturer, holder of an out-of-state distilled spirits shipper's*
 4 *certificate, holder of a distilled spirits importer's general license,*
 5 *craft distiller, or holder of a beer and wine importer's general*
 6 *license.*

7 *(c) "On-sale licensee" means a person holding an on-sale*
 8 *general SEF-BFPEP license to serve alcoholic beverages on the*
 9 *premises of a sports entertainment facility.*

10 *(d) "SEF-BFPEP license" means an on-sale general for sports*
 11 *entertainment facility bona fide public eating place license issued*
 12 *pursuant to this article.*

13 *(e) "Sports entertainment facility" means a publicly or privately*
 14 *owned stadium, coliseum, motor speedway, or an enclosed arena*
 15 *with a spectator capacity exceeding 10,000 people where sporting*
 16 *or entertainment events are presented for a price of admission.*
 17 *The facility does not have to be used exclusively for sporting or*
 18 *entertainment events. A "sports entertainment facility" also means*
 19 *any facility described in Section 25503.6 or 25503.8 as those*
 20 *sections read on December 31, 2016, even if those sections are*
 21 *later repealed.*

22 *23552. (a) In addition to the licenses specified in Section*
 23 *23320, the department may issue an SEF-BFPEP license to sell*
 24 *beer, wine, and distilled spirits at retail for consumption upon the*
 25 *premises only.*

26 *(b) The SEF-BFPEP license may be issued to the person*
 27 *providing alcoholic beverage and food service at the sports*
 28 *entertainment facility. Except as provided in this section, only*
 29 *licensees with an SEF-BFPEP license are authorized to sell beer,*
 30 *wine, and distilled spirits at retail for consumption upon the*
 31 *premises of the sports entertainment facility. The license shall only*
 32 *be transferable from person to person at the same premises. An*
 33 *SEF-BFPEP license shall not be transferred for a purchase price*
 34 *or consideration in excess of the original fee paid for that license.*

35 *(c) The original fee for an SEF-BFPEP license shall be thirteen*
 36 *thousand eight hundred dollars (\$13,800) to cover the reasonable*
 37 *administrative costs of the department. The annual license fee*
 38 *shall be consistent with the on-sale general bona fide public eating*
 39 *place license and shall be adjusted pursuant to subdivisions (b)*
 40 *and (c) of Section 23320.*

1 (d) (1) Issuance of the license shall be subject to the provisions
2 of Section 23958.4.

3 (2) Issuance of the license shall not be subject to the provisions
4 of Section 23816.

5 (e) (1) Any person providing alcoholic beverage and food
6 service at a sports entertainment facility pursuant to another type
7 of on-sale license as of the effective date of this section shall obtain
8 an SEF-BFPEP license within 12 months of the effective date of
9 this section if that person provides alcoholic beverage and food
10 service at the facility on or after January 1, 2017. The person may
11 elect to surrender that existing license in exchange for an
12 SEF-BFPEP license or may transfer that license pursuant to
13 applicable law. If, after a license surrender and exchange, the
14 on-sale licensee that surrendered and exchanged its license for
15 an SEF-BFPEP license no longer provides alcoholic beverage
16 and food service at that facility, the on-sale licensee may surrender
17 and exchange the SEF-BFPEP license for the licensee's original
18 license, subject to any applicable provisions of this division.

19 (2) The department may modify its rules regarding the surrender
20 of licenses to implement this subdivision.

21 23553. The SEF-BFPEP license is subject to all of the following
22 conditions:

23 (a) Except as otherwise provided in this chapter, a person
24 holding an SEF-BFPEP license shall not enter into any agreement
25 with any authorized licensee for the purchase of advertising space
26 and time at the sports entertainment facility, including the premises
27 of the on-sale licensee.

28 (b) (1) For any sports entertainment facility at which an
29 authorized licensee has entered into an agreement with the owner
30 or major tenant of the facility for the purchase of advertising space
31 and time at the facility, any on-sale licensee shall serve other
32 brands of beer distributed by a competing wholesaler that are not
33 the brands of beer sold, manufactured, or marketed by an
34 authorized licensee, other brands of wine distributed by a
35 competing wholesaler that are not the brands of wine sold,
36 manufactured, or marketed by an authorized licensee, and other
37 brands of distilled spirits distributed by a competing wholesaler
38 that are not the brands sold, manufactured, or marketed by an
39 authorized licensee that purchased the advertising space and time.
40 An on-sale licensee may also serve brands of beer that are

1 *manufactured and provided by an unaffiliated, competing licensed*
 2 *beer manufacturer that are not the brands of beer sold,*
 3 *manufactured, or marketed by an authorized licensee that*
 4 *purchased the advertising space and time.*

5 *(2) For the purpose of this subdivision, brands of an authorized*
 6 *licensee purchasing the advertising space and time shall mean*
 7 *brands of beer, wine, or distilled spirits that are sold,*
 8 *manufactured, or marketed by the authorized licensee or sold,*
 9 *manufactured, or marketed by any subsidiary or other business*
 10 *entity of the authorized licensee that the authorized licensee owns,*
 11 *manages, or controls.*

12 *(c) (1) An owner or major tenant of any sports entertainment*
 13 *facility described in Section 25503.6 or 25503.8, as those sections*
 14 *read on December 31, 2016, that is also the retail licensee for that*
 15 *facility as of December 31, 2016, is exempt from subdivisions (a)*
 16 *and (b) and Section 23554, but shall be subject to the provisions*
 17 *of Section 25503.6 or 25503.8 as they read on December 31, 2016,*
 18 *regardless if either or both of those sections are repealed, if there*
 19 *is an agreement existing on December 31, 2016, for the purchase*
 20 *of advertising space and time at the facility. An owner or major*
 21 *tenant that continues as the retail licensee for the facility on or*
 22 *after the effective date of this section shall comply with subdivision*
 23 *(e) of Section 23552.*

24 *(2) When an agreement existing on December 31, 2016, for the*
 25 *purchase of advertising space and time at the facility is modified,*
 26 *renewed, or extended, or a new agreement is entered into, on or*
 27 *after the effective date of this section, the owner or major tenant*
 28 *shall be subject to subdivisions (a) and (b), and to the provisions*
 29 *of subdivisions (a) to (f), inclusive, of Section 23554.*

30 *(3) A sports entertainment facility owner or major tenant which*
 31 *is also the retail licensee for that facility as of December 31, 2016,*
 32 *that seeks an exemption pursuant to this subdivision shall submit*
 33 *to the department, by January 31, 2017, a declaration stating that*
 34 *the sports entertainment facility is subject to an agreement for the*
 35 *purchase of advertising space and time at the facility that was in*
 36 *effect on December 31, 2016, and continues in effect on or after*
 37 *January 1, 2017. The declaration shall further state the name and*
 38 *address of the sports entertainment facility, the names of the parties*
 39 *to the agreement, and the time period that agreement will continue*
 40 *in effect. The licensee shall notify the department within 15 days*

1 of any amendment, extension, modification, or renewal of that
2 agreement, or of any new agreement, entered into on or after the
3 effective date of this section. The declaration shall not be under
4 penalty of perjury.

5 (d) A violation of any provision of this section or the filing of a
6 false declaration shall be subject to license suspension by the
7 department.

8 23554. Notwithstanding any other provision of this division,
9 and except as provided in subdivision (f), an authorized licensee
10 may purchase advertising space and time at a sports entertainment
11 facility from the owner or major tenant of the facility who is not
12 a licensee under this article, subject to the following conditions:

13 (a) The purchase of advertising space and time shall be
14 conducted pursuant to a written agreement entered into by the
15 authorized licensee and the owner or major tenant of the facility
16 containing all the terms and conditions of such purchase.

17 (b) (1) The authorized licensee shall submit to the department
18 within 15 days of execution of the agreement a declaration stating
19 that the authorized licensee has entered into a written agreement
20 for the purchase of advertising space and time at a sports
21 entertainment facility pursuant to and in compliance with the
22 provisions of this section, along with a fee of two thousand five
23 hundred dollars (\$2,500) to cover the reasonable administrative
24 costs of the department. The declaration shall further state the
25 name and address of the sports entertainment facility, the names
26 of the parties to the agreement, and the time period that agreement
27 will continue in effect. The authorized licensee shall notify the
28 department within 15 days of any amendment, extension,
29 modification, or renewal of that agreement or of any new
30 agreement.

31 (2) The declaration shall also state that there is no financial
32 arrangement or agreement, written or oral, between the authorized
33 licensee and the owner or major tenant of the facility or with any
34 on-sale licensee that provides for the on-sale licensee to receive
35 a share of the revenues, or anything of value, directly or indirectly,
36 from the advertising agreement.

37 (3) The declaration required by this subdivision shall not be
38 under penalty of perjury. Failure to comply with this subdivision
39 or the filing of a false declaration shall be subject to license
40 suspension by the department.

1 (c) *The agreement shall not contain any of the following terms*
2 *or conditions:*

3 (1) *The agreement is conditioned on the purchase or sale of the*
4 *authorized licensee's brands of alcoholic beverages by the on-sale*
5 *licensee or limits the purchase and sale of competing brands of*
6 *alcoholic beverages manufactured, distributed, sold, or marketed*
7 *by other authorized licensees at the facility by the on-sale licensee.*

8 (2) *The agreement provides for anything of value to be*
9 *furnished, directly or indirectly, to the on-sale licensee.*

10 (3) *Any term or condition that violates any provision of this*
11 *division.*

12 (d) *In monitoring the impacts of any agreements authorized by*
13 *this article, the department may conduct audits to determine*
14 *compliance with this section. Audits may include, but are not*
15 *limited to, brand selection at the sports entertainment facility,*
16 *purchase patterns of the on-sale licensee, and review of any*
17 *agreement or amendments to an agreement or any other*
18 *contractual or financial arrangement, written or oral, between or*
19 *among the parties to the agreement and the on-sale licensee,*
20 *including any affiliated business of the on-sale licensee or any*
21 *affiliated business of the authorized licensee.*

22 (e) *The department shall penalize a violation of any provision*
23 *of this section by the suspension of the authorized licensee's license*
24 *or by a fine equal to the contract value of the agreement for*
25 *advertising.*

26 (f) (1) *Any sports entertainment facility described in Section*
27 *25503.6 or 25503.8 as those sections read on December 31, 2016,*
28 *shall be exempt from the provisions of this section if there is an*
29 *agreement existing on December 31, 2016, for the purchase of*
30 *advertising space and time at the facility, but shall for the duration*
31 *of its exemption be subject to the provisions in those sections as*
32 *they read on December 31, 2016, regardless if the section is later*
33 *repealed. When an agreement existing on December 31, 2016, for*
34 *the purchase of advertising space and time at the facility is*
35 *modified, renewed, or extended, or a new agreement entered into,*
36 *on or after the effective date of this section, the facility shall be*
37 *subject to this section.*

38 (2) *An authorized licensee seeking an exemption pursuant to*
39 *this subdivision shall submit to the department by January 31,*
40 *2017, a declaration stating the sports entertainment facility is*

1 *subject to an agreement for the purchase of advertising space and*
2 *time at the facility that was in effect on December 31, 2016, and*
3 *continues in effect on or after January 1, 2017. That declaration*
4 *shall further state the name of the sports entertainment facility,*
5 *the names of the parties to the agreement, and the time period the*
6 *agreement will continue in effect. The authorized licensee shall*
7 *notify the department within 15 days of any amendment, extension,*
8 *modification, or renewal of that agreement, or any new agreement,*
9 *entered into on or after the effective date of this section. The*
10 *declaration shall not be under penalty of perjury. Failure to comply*
11 *with this paragraph or the filing of a false declaration shall be*
12 *subject to license suspension by the department.*

13 *23555. The Legislature finds and declares all of the following:*

14 *(a) Statutes to implement a three-tier system, which requires a*
15 *separation between manufacturing interests, wholesale interests,*
16 *and retail interests in the production, distribution, and sale of*
17 *alcoholic beverages, are as proper and necessary to the public*
18 *welfare in the 21st Century as they were when first enacted*
19 *following the enactment of the 21st Amendment to the United States*
20 *Constitution and the repeal of prohibition; that the three-tier*
21 *system by requiring economic separation between the tiers*
22 *contributes to a fair, open, and competitive market resulting in*
23 *interbrand and other competition within each tier, thereby*
24 *broadening consumer choices; and that it also prevents disorderly*
25 *market conditions arising from the domination of local markets*
26 *through vertical integration leading to excessive sales of alcoholic*
27 *beverages and consumption produced by overly aggressive*
28 *marketing techniques, including, but not limited to, the domination*
29 *of local markets and the undue economic influence of one tier over*
30 *another. The Legislature further affirms that temperance is*
31 *achieved, consistent with the structural regulation that promotes*
32 *a competitive and orderly market, by controlled access to, and*
33 *responsible use and consumption of, alcoholic beverages by*
34 *persons of legal drinking age.*

35 *(b) The enactment of tied-house restrictions are necessary*
36 *economic regulations that serve important public interests, and*
37 *the restrictions prohibiting a manufacturer or wholesaler from*
38 *furnishing, giving, or lending any money or other thing of value*
39 *to a retail licensee, or from paying or compensating a retailer for*
40 *advertising as provided in Section 25503, are necessary to promote*

1 and maintain an orderly competitive market that is open and
2 accessible to all brands and to prevent manufacturers from
3 dominating local markets through payment of incentives and
4 compensation to retailers. The Legislature further finds and
5 declares that limited exceptions have been made to this general
6 prohibition to promote an identifiable public purpose and interest
7 for the exception, which have been limited to the express terms of
8 the exception so as to not undermine the general prohibition.

9 (c) Because this system of prohibition with limited, specific
10 exceptions may be incorrectly construed to undermine the general
11 prohibition despite legislative directives to the contrary, this
12 section is necessary to clarify and reenforce the general prohibition
13 as provided in Section 25503.

14 (d) There may be instances where the community public interest
15 and welfare would benefit from the sports entertainment facility
16 owner or its major tenant being able to receive revenue for the
17 advertisement of alcoholic beverages on the premises of the facility.
18 Therefore, this article is enacted to authorize manufacturers of
19 alcoholic beverages to enter into agreements with the owner or
20 major tenant of a sports entertainment facility for the placement
21 of brand advertisements upon the premises of the facility where
22 the alcoholic beverage sales on the facility premises are conducted
23 by a separate, independent entity who is the on-sale general
24 licensee and does not share in the advertising revenue.

25 (e) The provisions of this article and other exceptions in this
26 division to the general prohibition against tied interests must be
27 narrowly construed and limited to the express terms of the
28 exception so as not to undermine the general prohibition. The
29 Legislature expressly intends that this article and division be
30 construed in accordance with these findings.

31 SEC. 2. Section 25503.6 of the Business and Professions Code
32 is amended to read:

33 25503.6. (a) Notwithstanding any other provision of this
34 chapter, a beer manufacturer, the holder of a winegrower's license,
35 a distilled spirits rectifier, a distilled spirits manufacturer, or
36 distilled spirits manufacturer's agent may purchase advertising
37 space and time from, or on behalf of, an on-sale retail licensee
38 subject to all of the following conditions:

1 (1) The on-sale licensee is the owner, manager, agent of the
2 owner, assignee of the owner's advertising rights, or the major
3 tenant of the owner of any of the following:

4 (A) An outdoor stadium or a fully enclosed arena with a fixed
5 seating capacity in excess of 10,000 seats located in Sacramento
6 County or Alameda County.

7 (B) A fully enclosed arena with a fixed seating capacity in
8 excess of 18,000 seats located in Orange County or Los Angeles
9 County.

10 (C) An outdoor stadium or fully enclosed arena with a fixed
11 seating capacity in excess of 8,500 seats located in Kern County.

12 (D) An exposition park of not less than 50 acres that includes
13 an outdoor stadium with a fixed seating capacity in excess of 8,000
14 seats and a fully enclosed arena with an attendance capacity in
15 excess of 4,500 people, located in San Bernardino County.

16 (E) An outdoor stadium with a fixed seating capacity in excess
17 of 10,000 seats located in Yolo County.

18 (F) An outdoor stadium and a fully enclosed arena with fixed
19 seating capacities in excess of 10,000 seats located in Fresno
20 County.

21 (G) An athletic and entertainment complex of not less than 50
22 acres that includes within its boundaries an outdoor stadium with
23 a fixed seating capacity of at least 8,000 seats and a second outdoor
24 stadium with a fixed seating capacity of at least 3,500 seats located
25 in Riverside County.

26 (H) An outdoor stadium with a fixed seating capacity in excess
27 of 1,500 seats located in Tulare County.

28 (I) A motorsports entertainment complex of not less than 50
29 acres that includes within its boundaries an outdoor speedway with
30 a fixed seating capacity of at least 50,000 seats, located in San
31 Bernardino County.

32 (J) An exposition park, owned or operated by a bona fide
33 nonprofit organization, of not less than 400 acres with facilities
34 including a grandstand with a seating capacity of at least 8,000
35 people, at least one exhibition hall greater than 100,000 square
36 feet, and at least four exhibition halls, each greater than 30,000
37 square feet, located in the City of Pomona or the City of La Verne
38 in Los Angeles County.

39 (K) An outdoor soccer stadium with a fixed seating capacity of
40 at least 25,000 seats, an outdoor tennis stadium with a fixed

1 capacity of at least 7,000 seats, an outdoor track and field facility
2 with a fixed seating capacity of at least 7,000 seats, and an indoor
3 velodrome with a fixed seating capacity of at least 2,000 seats, all
4 located within a sports and athletic complex built before January
5 1, 2005, in the City of Carson in Los Angeles County.

6 (L) An outdoor professional sports facility with a fixed seating
7 capacity of at least 4,200 seats located in San Joaquin County.

8 (M) A fully enclosed arena with a fixed seating capacity in
9 excess of 13,000 seats in the City of Inglewood.

10 (N) (i) An outdoor stadium with a fixed seating capacity of at
11 least 68,000 seats located in the City of Santa Clara.

12 (ii) A beer manufacturer, the holder of a winegrower's license,
13 a distilled spirits rectifier, a distilled spirits manufacturer, or
14 distilled spirits manufacturer's agent may purchase advertising
15 space and time from, or on behalf of, a major tenant of an outdoor
16 stadium described in clause (i), provided the major tenant does not
17 hold a retail license, and the advertising may include the placement
18 of advertising in an on-sale licensed premises operated at the
19 outdoor stadium.

20 (O) A complex of not more than 50 acres located on the campus
21 of, and owned by, Sonoma State University dedicated to presenting
22 live artistic, musical, sports, food, beverage, culinary, lifestyle, or
23 other cultural and entertainment events and performances with
24 venues that include a concert hall with a seating capacity of
25 approximately 1,500 seats, a second concert hall with a seating
26 capacity of up to 300 seats, an outdoor area with a seating capacity
27 of up to 5,000 seats, and a further outdoor area with a seating
28 capacity of up to 10,000 seats. With respect to this complex,
29 advertising space and time may also be purchased from or on behalf
30 of the owner of the complex, a long-term tenant or licensee of the
31 venue, whether or not the owner, long-term tenant, or licensee
32 holds an on-sale license.

33 (P) A fairgrounds with a horse racetrack and equestrian and
34 sports facilities located in San Diego County.

35 (2) The outdoor stadium or fully enclosed arena described in
36 paragraph (1) is not owned by a community college district.

37 (3) The advertising space or time is purchased only in connection
38 with the events to be held on the premises of the exposition park,
39 stadium, or arena owned by the on-sale licensee. With respect to
40 an exposition park as described in subparagraph (J) of paragraph

(1) that includes at least one hotel, the advertising space or time shall not be displayed on or in any hotel located in the exposition park, or purchased in connection with the operation of any hotel located in the exposition park. With respect to the complex described in subparagraph (O) of paragraph (1), the advertising space or time shall be purchased only in connection with live artistic, musical, sports, food, beverage, culinary, lifestyle, or other cultural and entertainment events and performances to be held on the premises of the complex.

(4) The on-sale licensee serves other brands of beer distributed by a competing beer wholesaler in addition to the brand manufactured or marketed by the beer manufacturer, other brands of wine distributed by a competing wine wholesaler in addition to the brand produced by the winegrower, and other brands of distilled spirits distributed by a competing distilled spirits wholesaler in addition to the brand manufactured or marketed by the distilled spirits rectifier, the distilled spirits manufacturer, or the distilled spirits manufacturer's agent that purchased the advertising space or time.

(b) Any purchase of advertising space or time pursuant to subdivision (a) shall be conducted pursuant to a written contract entered into by the beer manufacturer, the holder of the winegrower's license, the distilled spirits rectifier, the distilled spirits manufacturer, or the distilled spirits manufacturer's agent and any of the following:

(1) The on-sale licensee.

(2) With respect to clause (ii) of subparagraph (N) of paragraph (1) of subdivision (a), the major tenant of the outdoor stadium.

(3) With respect to subparagraph (O) of paragraph (1) of subdivision (a), the owner, a long-term tenant of the complex, or licensee of the complex, whether or not the owner, long-term tenant, or licensee holds an on-sale license.

(c) Any beer manufacturer or holder of a winegrower's license, any distilled spirits rectifier, any distilled spirits manufacturer, or any distilled spirits manufacturer's agent who, through coercion or other illegal means, induces, directly or indirectly, a holder of a wholesaler's license to fulfill all or part of those contractual obligations entered into pursuant to subdivision (a) or (b) shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an

1 amount equal to the entire value of the advertising space, time, or
2 costs involved in the contract, whichever is greater, plus ten
3 thousand dollars (\$10,000), or by both imprisonment and fine. The
4 person shall also be subject to license revocation pursuant to
5 Section 24200.

6 (d) Any on-sale retail licensee, as described in subdivision (a),
7 who, directly or indirectly, solicits or coerces a holder of a
8 wholesaler's license to solicit a beer manufacturer, a holder of a
9 winegrower's license, a distilled spirits rectifier, a distilled spirits
10 manufacturer, or a distilled spirits manufacturer's agent to purchase
11 advertising space or time pursuant to subdivision (a) or (b) shall
12 be guilty of a misdemeanor and shall be punished by imprisonment
13 in the county jail not exceeding six months, or by a fine in an
14 amount equal to the entire value of the advertising space or time
15 involved in the contract, whichever is greater, plus ten thousand
16 dollars (\$10,000), or by both imprisonment and fine. The person
17 shall also be subject to license revocation pursuant to Section
18 24200.

19 (e) For the purposes of this section, "beer manufacturer" includes
20 any holder of a beer manufacturer's license, any holder of an
21 out-of-state beer manufacturer's certificate, or any holder of a beer
22 and wine importer's general license.

23 (f) The Legislature finds that it is necessary and proper to require
24 a separation among manufacturing interests, wholesale interests,
25 and retail interests in the production and distribution of alcoholic
26 beverages in order to prevent suppliers from dominating local
27 markets through vertical integration and to prevent excessive sales
28 of alcoholic beverages produced by overly aggressive marketing
29 techniques. The Legislature further finds that the exceptions
30 established by this section to the general prohibition against tied
31 interests shall be limited to their express terms so as not to
32 undermine the general prohibition and intends that this section be
33 construed accordingly.

34 (g) *This section shall become inoperative on December 31,*
35 *2022.*

36 *SEC. 3. Section 25503.8 of the Business and Professions Code*
37 *is amended to read:*

38 25503.8. (a) Notwithstanding any other provision of this
39 chapter, a beer manufacturer, the holder of a winegrower's license,
40 a California winegrower's agent, a distilled spirits rectifier, a

1 distilled spirits manufacturer, or a distilled spirits manufacturer's
2 agent may purchase advertising space and time from, or on behalf
3 of, an on-sale retail licensee if all of the following conditions are
4 met:

5 (1) The on-sale licensee is the owner of any of the following:

6 (A) A fully enclosed auditorium or theater with a fixed seating
7 capacity in excess of 6,000 seats, at least 60 percent of the use of
8 which is for plays or musical concerts, not including sporting
9 events.

10 (B) A motion picture studio facility at which public tours are
11 conducted for at least four million people per year.

12 (C) A retail, entertainment development adjacent to, and under
13 common ownership with, a theme park, amphitheater, and motion
14 picture production studio.

15 (D) A theme or amusement park and the adjacent retail, dining,
16 and entertainment area located in the City of Los Angeles, Los
17 Angeles County, or Orange County.

18 (E) A fully enclosed theater, with box office sales and attendance
19 by the public on a ticketed basis only, with a fixed seating capacity
20 in excess of 6,000 seats, located in Los Angeles County within the
21 area subject to the Los Angeles Sports and Entertainment District
22 Specific Plan adopted by the City of Los Angeles pursuant to
23 ordinance number 174225, as approved on September 6, 2001.

24 (F) A fully enclosed arena with a fixed seating capacity in excess
25 of 15,000 seats located in Santa Clara County. With respect to the
26 arena described in this subparagraph, advertising space may also
27 be purchased from, or on behalf of, a lessee or manager of the
28 arena.

29 (2) The advertising space or time is purchased only in connection
30 with one of the following:

31 (A) In the case of a fully enclosed auditorium or theater, in
32 connection with sponsorship of plays or musical concerts to be
33 held on the premises of the auditorium or theater owned by the
34 on-sale licensee.

35 (B) In the case of a motion picture studio facility, in connection
36 with sponsorship of the public tours or special events conducted
37 at the studio facility.

38 (C) In the case of a retail, entertainment development, in
39 connection with sponsorship of public tours or special events
40 conducted at the development.

1 (D) In the case of a theme or amusement park and the adjacent
2 retail, dining, and entertainment area, located in the City of Los
3 Angeles, Los Angeles County, or Orange County, in connection
4 with daily activities and events at the theme or amusement park
5 and the adjacent retail, dining, and entertainment area.

6 (E) In the case of the fully enclosed theater described in
7 subparagraph (E) of paragraph (1) of subdivision (a), in connection
8 with events conducted at the theater.

9 (F) In the case of a fully enclosed arena described in
10 subparagraph (F) of paragraph (1) of subdivision (a), interior
11 advertising in connection with events conducted within the arena.

12 (3) The on-sale licensee serves other brands of beer distributed
13 by a competing beer wholesaler in addition to the brand
14 manufactured or marketed by the beer manufacturer, other brands
15 of wine distributed by a competing wine wholesaler in addition to
16 the brand produced or marketed by the winegrower or California
17 winegrower's agent, and other brands of distilled spirits distributed
18 by a competing distilled spirits wholesaler in addition to the brand
19 manufactured or marketed by the distilled spirits manufacturer or
20 distilled spirits manufacturer's agent purchasing the advertising
21 space or time.

22 (b) Any purchase of advertising space or time conducted
23 pursuant to subdivision (a) shall be conducted pursuant to a written
24 contract entered into by the beer manufacturer, the holder of the
25 winegrower's license, the California winegrower's agent, the
26 distilled spirits manufacturer, or the distilled spirits manufacturer's
27 agent, and the on-sale licensee, which contract shall not in any
28 way involve the holder of a wholesaler's license.

29 (c) Any beer manufacturer, distilled spirits manufacturer,
30 distilled spirits manufacturer's agent, holder of a winegrower's
31 license, or California winegrower's agent, who, through coercion
32 or other illegal means, induces, directly or indirectly, a holder of
33 a wholesaler's license to fulfill those contractual obligations entered
34 into pursuant to subdivision (a) or (b) shall be guilty of a
35 misdemeanor and shall be punished by imprisonment in the county
36 jail not exceeding six months, or by a fine in an amount equal to
37 the entire value of the advertising space or time involved in the
38 contract, whichever is greater, plus ten thousand dollars (\$10,000),
39 or by both imprisonment and fine. The person shall also be subject
40 to license revocation pursuant to Section 24200.

1 (d) Any on-sale retail licensee, as described in subdivision (a),
2 who solicits or coerces, directly or indirectly, a holder of a
3 wholesaler's license to solicit a beer manufacturer, distilled spirits
4 manufacturer, or distilled spirits manufacturer's agent, holder of
5 a winegrower's license, or California winegrower's agent to
6 purchase advertising space or time pursuant to subdivision (a) or
7 (b) shall be guilty of a misdemeanor and shall be punished by
8 imprisonment in the county jail not exceeding six months, or by
9 a fine in an amount equal to the entire value of the advertising
10 space or time involved in the contract, whichever is greater, plus
11 ten thousand dollars (\$10,000), or by both imprisonment and fine.
12 The person shall also be subject to license revocation pursuant to
13 Section 24200.

14 (e) For the purposes of this section, "beer manufacturer" includes
15 any holder of a beer manufacturer's license, any holder of an
16 out-of-state beer manufacturer's certificate, or any holder of a beer
17 and wine importer's general license.

18 (f) *This section shall become inoperative on December 31, 2022.*

19 ~~SECTION 1. Section 23792 of the Business and Professions~~
20 ~~Code is repealed.~~